IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11222 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

CHIEF OFFICER

Versus

INAYATMIYA M MALEK

Appearance:

MR YV SHAH for the Petitioner.

MR PRABHAKAR UPADYAY for Respondent No. 1

Mr.H.C. Patel, AGP, Assistant GOVERNMENT PLEADER, for Respondent No. 2

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 28/08/2001

ORAL JUDGEMENT

1. Rule. With the consent of the parties, the matter is taken up for final hearing today.

2. The respondent workman had raised an industrial dispute which was referred to the Labour Court, Ahmedabad

and was numbered as Reference (L.C.A.) No.1104 of 1988. By its order dated 16.10.1996, the Labour Court, Ahmedabad, passed an order of reinstatement in favour of the respondent-workman with back wages and all other benefits. It is required to be noted that the Award is dated 16.10.1996 and this petition is filed after considerable delay. Even on the ground of delay and laches, the petition is required to be rejected.

3. Apart from the said fact, it has been observed by the Labour Court in paragraph 5 of the Award that the petitioner had not even cross-examined the concerned workman and it seems that there was total negligence exhibited by the present petitioner in conducting the said case before the Labour Court. Considering the evidence of the workman, the Labour Court allowed the said Reference. Considering the fact that the petitioner has not led any evidence before the Labour Court nor even cross-examined the concerned workman and also considering the fact that the Award is passed as back as on 16.10.1996, which is challenged before this Court after a period about 4 years, no interference of this Court is required. The petition is devoid of any merit and hence, it is rejected.

4. Mr.Upadhyay volunteered at this stage and submitted that the concerned workman has no objection if the back wages is reduced from 100% to 50%. In view of the said concession, the order of back wages is modified and it is ordered that, instead of 100% back wages, the concerned workman will be entitled to 50% back wages for the intervening period. The rest of the Award of the Labour Court is confirmed.

The petitioner may comply with this order within a period of one month from today.

Respondent No.1 is permitted to withdraw the sum of Rs.3,000/- deposited by the petitioner at the time of issuing notice vide order dated 13.2.2001. Office may hand over the aforesaid sum of Rs.3,000/- to the Advocate for respondent No.1 by account payee cheque. The said amount should be treated as costs of this petition.

Petition is accordingly disposed of. Rule is made absolute to the aforesaid extent.

28th August, 2001 (P.B. Majmudar, J.)

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(apj)